

REMARKS

In response to the above-identified Office Action, Applicant amends the application and seeks reconsideration thereof. In this response, Applicant amends claims 1, 14, and 23. Applicant does not cancel any claims or add any new claims. Accordingly, claims 1-27 are pending.

I. Claims Rejected Under 35 U.S.C. § 112, second paragraph

Claim 14 stands rejected under 35 U.S.C. § 112, second paragraph, because the Examiner asserts that it is not clear whether an apparatus or an article of manufacture is claimed. Applicant has amended claim 14 to recite “a communication interface coupled to the processor” to more clearly point out and distinctively claim an apparatus. Accordingly, reconsideration and withdrawal of the indefiniteness rejection are requested.

II. Claims Rejected Under 35 U.S.C. § 101

Claims 1-13 stand rejected under 35 U.S.C. § 101 because the Examiner asserts that the claims are directed to non-statutory subject matter. While the Examiner admits that the claims produce a useful, concrete, and tangible result, the Examiner asserts that the claims are not within the technological arts. Applicant has amended claim 1 to recite that the method is a “computer implemented network.” Claim 1 as amended explicitly involves and uses technological arts. Accordingly, reconsideration and withdrawal of the subject matter rejection are requested.

In regard to claims 2-13, these claims depend from independent claim 1 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to claim 1, these claims are also within the technological arts. Accordingly, reconsideration and withdrawal of the subject matter rejection of claim 2-13 are requested.

III. Claims Rejected Under 35 U.S.C. § 102

Claims 1-3 and 10-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,848,396 issued to Gerace (hereinafter “Gerace’396”). Additionally, the Examiner states that claims 14-27 are rejected for the same reasons that claims 1-13 are rejected.

Applicant interprets the Examiner's statement to mean that 14-16 and 20-27 are rejected under 35 U.S.C. § 102(b) for the same reasons that claims 1-3 and 10-13 are rejected. Applicant respectfully disagrees for the following reasons.

To anticipate a claim, the Examiner must show that a single reference teaches each of the elements of that claim. Claims 1, 14, and 23 include the elements of "receiving a feedback data wherein the feedback data is based on information stored in a memory device of each of the clients" or "receiving a feedback data....wherein the feedback data is based on information stored in the clients." Gerace'396 does not teach that the feedback data is based on information stored in the clients. Rather, Gerace'396 teaches a computer subroutine that reports successful use of advertisements, including hits and click-throughs (col. 12, lines 57-63). The Examiner characterizes the advertisements taught by Gerace'396 as the product description data, and hits and click-throughs as the feedback data. Both the hits and the click-throughs require a user to take action. Counting the number of hits and click-throughs does not use information stored in the clients. Thus, the feedback data taught by Gerace'396 is generated from the user's action in response to an advertisement, not from information stored in the clients. There is nothing in Gerace'396 that teaches the use of stored information in the clients to report successful use of advertisements. Therefore, Gerace'396 does not anticipate claims 1, 14, or 23.

In regard to claims 2, 3, 10-13, 15, 16, 20-22, and 24-27, these claims depend from independent claims 1, 14, and 23 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to claims 1, 14, and 23, Gerace'396 does not anticipate each of the elements of these claims. Accordingly, reconsideration and withdrawal of the anticipation rejection of claims 1-3, 10-13, 14-16, and 20-27 are requested.

IV. Claims Rejected Under 35 U.S.C. § 103

Claims 4-9 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,991,735 issued to Gerace et al (hereinafter "Gerace'735") in view of U.S. Patent No.

5,999,908 issued to Abelow (hereinafter “Abelow”). Additionally, the Examiner states that claims 14-27 are rejected for the same reasons that claims 1-13 are rejected. Applicant interprets the Examiner’s statement to mean that 17-19 are rejected under 35 U.S.C. § 103(a) for the same reasons that claims 4-9 are rejected. Applicant respectfully disagrees for the following reasons.

To establish a *prima facie* case of obviousness, the Examiner must show the cited references, combined, teach or suggest each of the elements of a claim. Gerace’735 teaches the feedback data in the form of number of hits and click-throughs (Fig. 5B) and Abelow teaches the use of customer feedback to improve product design (col. 18, lines 21-36). Gerace’735 does not teach or suggest the feedback data based on information stored in the clients as recited in claims 1 and 14. Abelow does not cure the defects of Gerace’735. Thus, Gerace’735 in view of Abelow does not teach or suggest each of the elements of claims 1 and 14.

Claims 4-9 and 17-19 depend from independent claims 1 and 14 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to claims 1 and 14, Gerace’735 in view of Abelow does not teach or suggest each of the elements of claims 4-9 and 17-19. Accordingly, reconsideration and withdrawal of the of the obviousness rejection of claims 4-9 and 17-19 are requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-27 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 26, 2005.

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